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In re Application of	:	
WEISS, Lawrence D., et al.	:	
U.S. Application No.: 09/807,444	:	
PCT No.: PCT/US99/22904	:	DECISION ON PETITION
International Filing Date: 01 October 1999	:	TO REVIVE ABANDONED
Priority Date: 02 October 1998	:	APPLICATION UNDER 37
Attorney's Docket No.: 374.37564A00	:	CFR 1.137(b)
For: SYSTEM AND METHOD OF ADVISING	:	
BUYERS HOW MUCH TO PAY FOR GOODS	:	
AND SERVICES BASED ON DEMOGRAPHICS	:	

This decision is issued in response to applicants' Petition for Revival under 37 CFR 1.137(b) filed on 25 April 2001. Applicants have paid the required small entity petition fee.

### **BACKGROUND**

On 01 October 1999, applicants filed international application PCT/US99/22904 which claimed a priority date of 02 October 1998 and which designated the United States.

On 20 April 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 02 April 2001.

On 25 April 2001, applicants filed the Petition for Revival, with accompanying materials, considered herein.

### **DISCUSSION**

37 CFR 1.137(b) permits the filing of a petition to revive an abandoned application where the abandonment resulted from an unintentional delay. A grantable petition under this section must include: (1) the required reply, unless previously filed; (2) the petition fee required by law; (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional;" and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

Regarding item (1), the "required reply," section 711.03(c) of the Manual of Patent Examining Procedures states that:

[g]enerally, the required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed.

Here, a copy of the international application was not required because the international application was filed in the United States Receiving Office. The "required reply" was therefore payment of the basic national fee. The Petition for Revival was accompanied by a credit card authorization to charge applicants for the basic national fee. However, the charge to the authorized credit card was rejected. Thus, applicants have not made a submission which would have been "sufficient to have avoided abandonment" had it been made in a timely manner. Accordingly, applicants have not satisfied item (1).

Item (2) is the petition fee required under 37 CFR 1.17(m). The Petition for Revival was accompanied by a payment of the \$620 small entity petition fee. Item (2) is satisfied.

As for item (3), the Petition for Revival expressly states that the "entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." Item (3) under 37 CFR 1.137(b) is satisfied.

Under the terms of 37 CFR 1.137(c), the terminal disclaimer listed as item (4) above is not required for this application.

Based on the above, applicants have satisfied items (2)-(4) for a grantable petition, but have failed to satisfy item (1). Accordingly, the Petition for Revival cannot be granted at this time.

It is noted that applicants also submitted an executed declaration with the Petition For Revival. However, the declaration executes a different international application (PCT/US99/22909) and therefore is unacceptable under 37 CFR 1.497.

### **CONCLUSION**

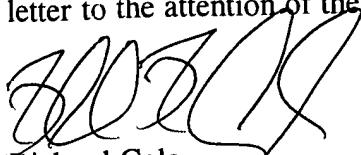
Applicants Petition for Revival is **DISMISSED** without prejudice. The application remains **ABANDONED** with regards to national stage processing in the United States.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within **TWO (2) MONTHS** from the mail date of this decision. The proper reply would be payment of the required basic national fee. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.13(a).

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Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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